

13.10.12

UNION PACIFIC RAILROAD COMPANY

LAW DEPARTMENT

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December 22, 1989

RECEIVED

DEC 26 1989

SUPERFUND BRANCH

VIA AIRBORNE

Ms. Sally Martyn
U.S. Environmental Protection Agency
Superfund Branch, Mail Stop: HW-113
1200 Sixth Avenue
Seattle, Washington 98101

Re: CERCLA Information Request:
Bunker Hill Superfund Site

Dear Ms. Martyn:

This letter will respond to your Request for Information dated November 14, 1989, and received November 28, 1989, concerning the Bunker Hill Superfund Site at Kellogg, Idaho. In a letter to you dated December 1, 1989, from Jeanne Larson of my office an extension was requested to December 22, 1989, due to the late date we received your request. You granted that exemption and later agreed that this response would be accepted on Tuesday, December 26, due to the Christmas holiday. You granted that extension and later agreed that this response would be accepted on Tuesday, December 26, due to the Christmas holiday.

Pursuant to your request, the following are answers to your questions:

QUESTION NO. 1: Union Pacific Railroad Company began operating through the Bunker Hill Site in 1887. More about the history of the Wallace and Sierra Nevada Branch lines is set forth in the answer to Question No. 2. Attached is a print marked Exhibit 1(a) is a print which shows the Wallace Branch and former Sierra Nevada Branch (running south from the Bradley siding) within the limits of

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the Superfund area. A portion of the Sierra Nevada Branch from Mile Post (M.P.) 4.0 to M.P. 2.02 was retired in the 1950's and to date we have not been able to determine what happened to the ties and track removed as a result of that decision. The portion of the Sierra Nevada Branch from M.P. 0.00 in Bradley to M.P. 2.02, was retired in November, 1986, but the track and rail were not removed until the summer of 1989. [See Exhibit 3(a) which is a contract with Condon Brothers, Inc. who removed the track at this location.]

Exhibit 1(b) and 1(c) are maps depicting the Sierra Nevada Branch right-of-way and track from Bradley to the Sierra Nevada Mine. They each also include a "Schedule of Property" at the top of each map which explains the right-of-way history, including the date of acquisition of the various parcels. The UPRR holds non-reversionary, fee title to the property acquired through Deed referenced on Exhibit 1(c) as Audit No. 5864, Serial No. 18 which is highlighted in yellow on the Schedule of Property. The remainder of the Sierra Nevada Branch line right-of-way is reversionary with reference made in orange highlight on Exhibits 1(b) and 1(c) to Audit Numbers 2126, 2127, 2696, 4230, 4287, 4383, 6306 on the Schedule of Property.

Exhibit 1(d) and 1(e) and 1(f) are maps of right-of-way and track on the Branch line from Tekoa to Wallace (the Wallace Branch).

Exhibit 1(g) is a station map dated August 26, 1960 of Kellogg-Wardner, Idaho.

Exhibit 1(h) is an alignment map dated February 12, 1927 at Bradley, Idaho. Union Pacific's railroad right-of-way is depicted on Exhibits 1(b)-1(h) by the broken lines and dots (...--...). Union Pacific and its predecessors would not have (and does not now) owned trackage shown outside of the right-of-way. That trackage, including the lines shown inside and around the smelter, was (and if it still exists, is) owned by private industry.

QUESTION NO. 2: Union Pacific Railroad Company was incorporated for 50 years in Utah, July 1, 1897. Articles of Incorporation were subsequently amended on May 8, 1945, and June 24, 1971, extending corporate existence in perpetuity. Attached and marked as Exhibit 2(a) is a listing of Union Pacific Railroad Company's current wholly-owned subsidiaries, as well as corporations merged into Union Pacific Railroad Company in the past four years. The address for each of these companies is 1416 Dodge Street, Omaha, Nebraska 68179. Each of these companies is involved in the transportation business, either by rail or by truck. Also attached and

marked Exhibit 2(b) is a listing of the directors and officers of Union Pacific Railroad Company as of August 28, 1989.

Also, attached is Exhibit 2(d), which lists the other railroads that made up the Oregon-Washington Railroad & Navigation Company (OWR&N), the company that owned the Wallace Branch. The Wallace Branch was built by the Washington and Idaho Railroad Co. in 1888-89 (WIRR). Through a series of transfers, the WIRR became part of the OWR&N. The OWR&N built the Sierra Nevada Branch in 1900-01. Union Pacific leased the OWR&N in 1936, [see Exhibit 2(c)] and operated it until December 29, 1987, when it was merged into the OSL which was merged into Union Pacific two days later. Neither the OSL or the OWR&N exist today. The Wallace Branch is currently considered excess trackage by Union Pacific and may be sold or abandoned in the foreseeable future.

QUESTION NO. 3: Attached as Exhibit 3(a) is an agreement with Condon Brothers, Inc., S. 2524 Hayford Road, Spokane, Washington, covering the purchase and removal of trackage and appurtenances described in Exhibit A of the agreement from the retired portion of the UPRR's Sierra Nevada Branch between M.P. 0.00 and M.P. 2.02. Please note on Exhibit B, page 1 through 31 of the agreement, the guidelines required by the EPA were followed for decontamination. According to Mr. Bob Markworth, Environmental Engineer for UPRR, following decontamination the scrap rail was sent to Oregon Steel and Purdy Oil Company in Seattle, Washington, for resmelting. Most of the ties in the track are still in the roadbed and a few ties are stockpiled on the site at Bunker Hill. Rail plates, spikes and other track material are also stockpiled and have not been removed.

Also attached as Exhibit 3(b) is a summary sheet of lab test results on materials removed from Sierra Nevada Branch from Silver Valley Laboratories.

QUESTION NO. 4: See answer to Question No. 3.

QUESTION NO. 5: Attached and marked as Exhibit 5a-h are computer print-outs for each year from 1979 through November, 1989 describing the metals and ore commodities transported to and from the cities of Bradley, Kellogg, Ward and Silver King, Idaho, all of which are within the Bunker Hill Site. The reports indicate each city as an origin and then as a destination. The consignor is the shipper and the consignee is the receiver. The commodities are indicated as numbers. Also enclosed is a list marked Exhibit 5(I) which matches the numbers with the

appropriate commodity. Our Marketing Department maintains traffic movement records for ten years only, therefore information prior to 1979 is unavailable.

Union Pacific is a common carrier by rail. As such, it is required by law to provide cars, then pick up and deliver them for shippers along its lines. This service does not make it a "transporter" as defined by § 107(a)(4) of CERCLA. Furthermore, the defense set forth in § 107(b)(3) would apply if Union Pacific were otherwise liable.

QUESTION NO. 6: Attached and identified as Exhibit No. 6 is an Insurance Policy Register of UPRR's Comprehensive General Liability insurance policies and carriers from 1941 to 1989. Union Pacific became self-insured in 1985 up to \$100 million. The current self-insurance level is \$25 million with insurance coverage from \$25 million to \$325 million. We have not submitted copies of the insurance policies due to the volume.

QUESTION NO. 7: All documents, records and correspondence we have been able to locate at this time regarding the use, treatment, storage and disposal of the previously identified materials is provided in the answers to Question Nos. 1-5.

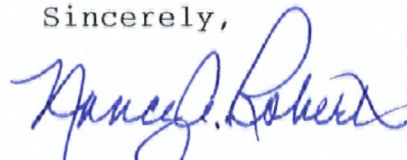
QUESTION NO. 8:

- (1) Robert Markworth
Environmental Engineer
1416 Dodge Street
Room 1000
Omaha, Nebraska 68179 (Ques. #3)
- (2) Dave McMullen
Marketing & Sales Rep.
1416 Dodge Street
Room 510
Omaha, Nebraska 68179 (Ques. #5)
- (3) Stan Martin
Accounting Department
1416 Dodge Street
MC 9045
Omaha, Nebraska 68179 (Ques. #4)
- (4) Charles Saylor
Law Department
1416 Dodge Street
Room 830
Omaha, Nebraska 68179 (Ques. #2)

- (5) Norm Silar
Engineering Department
1416 Dodge Street
Room 1000
Omaha, Nebraska 68179 (Ques. #1)
- (6) Mike Larsen
Engineer Department-Admin.
9th Floor
1416 Dodge Street
Omaha, Nebraska 68179 (Ques. #1)
- (7) Jack Nelson
Contracts & Real Estate
1416 Dodge Street
Room 1100
Omaha, Nebraska 68179 (Ques. #1)
- (8) Robin Redick
Casualty Management
1416 Dodge Street
Room 908
Omaha, Nebraska 68179 (Ques. #6)
- (9) Condon Brothers, Inc.
S. 2542 Hayford Road
Spokane, Washington (Ques. #3)

As a common carrier by rail, Union Pacific is obligated to move all commodities tendered to it by shippers. Consequently, the Railroad moved various metal products to and from the mines and smelters in the Bunker Hill area. If Union Pacific were required to get involved in every Superfund Site that its shippers were responsible for, it would be driven out of business. Therefore, Union Pacific does not intend to join the mediation process associated with the Bunker Hill Site.

Sincerely,



Nancy A. Roberts